IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

THURSDAY, THE 15TH NOVEMBER 2007 / 24TH KARTHIKA 1929

CRP.No. 690 of 2007

OPELE.307/2002 OF ADDL.DISTRICT COURT-I,MAVELIKKARA
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REVN. PETITIONER: 1ST RESPONDENT

POWER GRID CORPORATION OF INDIA LTD.,
LOCAL OFFICE, NANGIARKULANGARA,
KAYAMKULAM, REPRESENTED BY ITS MANAGER.

BY ADV. SRI.M.A.SHAFIK

RESPONDENTS: PETITIONER

RAMACHANDRAN PILLAI,
S/O SANKARAN PILLAI, KURUMBOLILPADEETTATHIL HOUSE,
BHARANIKAVU P.O., BHARANICKAVU, KATTANAM.

BY ADV. SRI.P.B.SAHASRANAMAN
SRI.T.S.HARIKUMAR

THIS CIVIL REVISION PETITION HAVING BEEN FINALLY HEARD ON 15/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

M.N.KRISHNAN, J

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C.R.P. No.690 OF 2007

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Dated this the 15th day of November 2007

JUDGMENT

This revision petition is preferred against the order of the I Addl.District Court, Mavelikkara in O.P.(Ele.)307 of 2002. The court by its judgment passed an award for Rs.22,116/- as enhanced compensation. A perusal of the award would reveal that the court had taken into consideration the decision of this court reported in ***Kumbamma v. K.S.E.B. (2000(1) KLT 542)*** wherein this court directed that 5 % annuity will have to be taken. Learned counsel for the petitioner had drawn my attention to the decision of the Apex Court reported in ***K.S.E.B. v. Livisha(2007(3) KLT 1).*** The Apex Court was considering the dictum laid down by this court in the decision referred to above and it was held that each case has to be decided on the facts and circumstances of the case. The Apex Court held as follows:

> The situs of the land, the distance between the high voltage electricity line laid thereover, the extent of the line thereon as also the fact as to whether the high voltage line passes over a small track of land or through the middle of the land and other similar relevant factors in our opinion would be determinative. The value of the land would also be a relevant factor. The owner of the land furthermore, in a

> given situation may lose his substantive right to use the property for the purpose for which the same was meant to be used. So far as the compensation in relation to fruit bearing trees are concerned the same would also depend upon the facts and circumstances of each case".

In view of the decision of the Apex Court the matter has to be decided afresh and additional particulars and evidence may be necessary to substantiate and decide the case.

Therefore the order under challenge is set aside and the matter is remitted back to the court below with a direction to dispose of the matter after affording equal opportunities to both parties to produce documents and adduce evidence in respect of their contentions in accordance with the dictum laid down by the Apex Court in the decision reported in 2007(3) KLT 1.

Revision petition is disposed of as above.

M.N.KRISHNAN, JUDGE

Cdp/-